IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 532 OF 2006

Onkarnath Shayamalal Yadav ... Petitioner

Versus

State of Maharashtra and Ors. ... Respondents

Ms. Maharukh Adenwala for Petitioner.

Mr. M. More, A.G.P. for R. nos. 1 and 4.

Mr. R.M. Sawant, Govt. Pleader for R. No. 3.

Ms. S. Ajitkumar for R. No. 2.

CORAM : F.I. REBELLO &
ANOOP V. MOHTA, JJ.
DATED : MARCH 13, 2006

P.C.

. Rule. Heard forthwith.

. On behalf of the respondent, the learned counsel points out that the Petitioner has a remedy by way of an appeal. Considering the fact that the matter has been heard, we propose to dispose of the petition itself in view of the order to be passed.

. The petitioner had earlier approached this court

where a direction was issued to Respondent No. 4 to consider the case of the Petitioner under the Government Resolution dated 11.7.2001. The Respondent No. 4 by his order dated 29.6.2005 has rejected the Petitioner's case. It is the contention of the Petitioner that though he had produced documentary evidence in support of his case, the said documentary evidence has not been considered. On that count alone, the order is liable to be set aside. The learned counsel has drawn our attention to the documentary evidence, produced by the Petitioner. One of the document is the identity card issued by the Election Commission dated 21.11.1994 showing that she was residing at Sanjay Nagar, Kama Industrial Estae Road,Goregaon. In other words, the petitioner's contention is that she is entitled to the photo pass as she was residing before 1.1.1995 in the structure which existed previous to 1.1.1995. The Petitioner thereafter shifted to some other place and was then residing in the structure at Indira Nagar Zopad Patti. It is the case of the Petitioner that it is pre 1995 structure purchased from one Hariram Chaurasiya whose name is there in the electoral

roll of 1.1.1995 at Sr. No. 340. There are other documents. In other words, it is the case of the Petitioners that she has shifted to another hut in the slum structure which was existing previous to 1.1.1995. The impugned order discloses that there is non consideration of these documents and other documents on record.

. In the light of the above, the following order :

. The impugned order dated 29.6.2005 is set aside. The matter is remanded back to the Respondent No. 4 for reconsideration after giving hearing to the Petitioner and pass appropriate orders accordingly. The entire exercise to be completed not later than 16 weeks from today.

(F.I. REBELLO,J.)

(ANOOP V. MOHTA,J.)